

# Exhibit 2

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: GENERIC PHARMACEUTICALS PRICING ANTITRUST LITIGATION	MDL 2724 16-MD-2724
THIS DOCUMENT RELATES TO: <i>ALL ACTIONS</i>	HON. CYNTHIA M. RUFE
	<b>DEFENDANTS' NOTICE OF SUBPOENA TO PRIME THERAPEUTICS LLC</b>

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that pursuant to Rules 34 and 45 of the Federal Rules of Civil Procedure, Defendant Par Pharmaceutical, Inc. will serve a subpoena on third party Prime Therapeutics LLC for the production of documents to be produced to Williams & Connolly LLP, 725 12th Street, Northwest, Washington, DC 20005, within thirty (30) days of the date of service or at any other time or place as counsel for the parties may agree.

**PLEASE TAKE FURTHER NOTICE** that a copy of the subpoena is enclosed. Dated:  
January 9, 2020

/s/ Alexander J. Kasner

Alexander J. Kasner  
WILLIAMS & CONNOLLY LLP  
725 Twelfth Street, N.W.  
Washington, DC 20005  
Tel: (202) 434-5000  
Fax: (202) 434-5029  
akasner@wc.com

*Counsel for Defendant Par Pharmaceutical, Inc.*

**CERTIFICATE OF SERVICE**

I, Alexander J. Kasner, hereby certify that on January 9, 2020, I caused true and correct copies of the foregoing DEFENDANTS' NOTICE OF SUBPOENA TO PRIME THERAPEUTICS LLC to be served by electronic mail upon all liaison counsel.

/s/ Alexander J. Kasner  
Alexander J. Kasner

## UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

IN RE: GENERIC PHARMACEUTICALS

PRICING ANTITRUST LITIGATION

*Plaintiff*

v.

THIS DOCUMENT RELATES TO:

ALL ACTIONS

*Defendant*

Civil Action No. 16-MD-2724

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Prime Therapeutics LLC c/o Corporation Service Company, 2345 Rice Street, Ste. 230, Roseville, MN 55113

*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: All documents requested in Schedule A.

Place: Williams & Connolly LLP  
725 12th Street Northwest,  
Washington, DC 20005

Date and Time:

02/09/2020 10:00 am

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 01/09/2020

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* \_\_\_\_\_  
Defendants \_\_\_\_\_, who issues or requests this subpoena, are:

Alexander J. Kasner, Williams &amp; Connolly LLP, 725 12th Street Northwest, Washington, DC, 20005 akasner@wc.com, (202) 434-5000

**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 16-MD-2724

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ 0.00 \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.:

**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)****(c) Place of Compliance.**

**(1) For a Trial, Hearing, or Deposition.** A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

**(2) For Other Discovery.** A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(g) Contempt.**

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

**SCHEDULE A**

**DEFINITIONS**

1. “Agreement(s)” means any actual or perceived meeting of the minds, contract, arrangement, subscription or understanding, formal or informal, oral or written, direct or indirect, tacit or express, implemented or unimplemented, successful or unsuccessful, between two or more Persons.

2. The terms “all,” “any,” and “each” shall each be construed as encompassing any and all; “every” means each and every. The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the subpoena request all responses that might otherwise be construed to be outside of its scope. The use of the singular form of any word includes the plural and vice versa.

3. “Capitation Contract” refers to a contract or similar arrangement whereby: (1) a client pays you a fixed amount for the cost of prescription drug purchases by all of the client’s members regardless of the number of prescriptions subsequently adjudicated or the price of the prescriptions (at the pharmacy or retail level); or (2) a client pays you a flat per capita fee for the cost of prescription drug purchases by a client’s member regardless of the number of prescriptions subsequently adjudicated for the member or the price of the prescriptions (at the pharmacy or retail level).

4. “Communication(s)” means without limitation, oral or written communications of any kind, such as electronic communications, emails, facsimiles, telephone communications, correspondence, exchange of written or recorded information, or face-to-face meetings transmitting information (in the form of facts, ideas, inquiries, or otherwise). The phrase

“communication between” is defined to include instances where one party addresses the other party but the other party does not necessarily respond.

5. The term “Covered Lives” shall mean the number of persons (and their dependents) enrolled in a particular health insurance program.

6. The terms “concerning,” “refer,” “relate,” “referring” and “relating” mean to expressly comprise, expressly reflect, expressly record, expressly memorialize, expressly discuss, expressly contradict, expressly evaluate, expressly consider, expressly review or expressly report on the subject matter of the request or to have been created, generated or maintained in connection with or as a result of the subject matter of the request.

7. “Defendant(s)” means any person or entity named as a defendant in any operative complaint in MDL 2724 at the time this subpoena is served, including its predecessors, successors, parents, subsidiaries, departments, divisions, joint ventures, partnerships, and other affiliates (including without limitation any organization or entity that the responding defendant manages or controls), together with all present and former directors, officers, employees, agents, attorneys, representatives or any persons acting or purporting to act on behalf of any defendant. A list of current Defendants is provided in **Appendix A**.

8. “Document(s)” is used in its broadest sense and is meant to include all items encompassed by Rule 34 of the Federal Rules of Civil Procedure including, without limitation, electronically stored information and electronic or computerized compilations, and voice or data recordings, no matter how any such documents are stored. As used herein, this term shall include all forms of electronic communication, including email (from any email accounts, including any work or personal email accounts), instant messages, and text messages. A draft or



non-identical copy is a separate document within the meaning of this term. “Document” shall be construed as a document and all attachments thereto.

9. The “Drug(s) At Issue” are the drugs currently at issue in the case and are identified by pharmaceutical product name in **Appendix B**.

10. “Employee” means, without limitation, any current or former officer, director, executive, manager, secretary, staff member, messenger, agent or other person who is or was employed by You.

11. “End-Payer Plaintiffs” or “EPPs” are the named health and welfare funds and/or insurers who have filed lawsuits in MDL 2724, including their predecessors, successors, parents, subsidiaries, departments, divisions, joint ventures, partnerships, and other affiliates (including without limitation any organization or entity that the responding defendant manages or controls), together with all present and former directors, officers, employees, agents, attorneys, representatives or any persons acting or purporting to act on behalf of any named EPP. The list of current EPPs is provided in **Appendix C**.

12. The term “including” is used to provide examples of certain types of information and should not be construed as limiting a request in any way. The term “including” shall be construed as if followed by the phrase “but not limited to.”

13. “NDC” refers to the National Drug Code used by the Food and Drug Administration to identify prescription drug products. NDC refers to the full 10 or 11-digit package NDC.

14. The term “network” refers to the group of pharmacies and/or Pharmacy Services Administrative Organizations that have entered into an agreement with you to dispense prescription drugs to EPPs’ insureds or beneficiaries.

## **APPENDIX B**

1. Acetazolamide
2. Acyclovir Tablets
3. Adapalene Gel
4. Albuterol Sulfate
5. Alclometasone Dipropionate (Cream, Ointment)
6. Allopurinol – A
7. Amantadine
8. Amikacin Injection
9. Amiloride HCL/HCTZ Tablets
10. Amitriptyline Hydrochloride
11. Amoxicillin/Clavulanate Chewable Tablets
12. Amphetamine/Dextroamphetamine Extended Release Capsules
13. Amphetamine/Dextroamphetamine Immediate Release Tablets
14. Atenolol Chlorthalidone
15. Azithromycin Oral Suspension
16. Azithromycin Suspension
17. Baclofen
18. Balsalazide Disodium
19. Benazepril HCTZ
20. Betamethasone Dipropionate (Ointment, Cream Lotion)
21. Betamethasone Dipropionate Augmented (Lotion)
22. Betamethasone Dipropionate Clotrimazole (Cream, Lotion)
23. Betamethasone Valerate (Ointment, Cream)
24. Bethanechol Chloride Tablets
25. Bromocriptine Mesylate
26. Budesonide Delayed Release Capsules
27. Budesonide Inhalation
28. Bumetanide Tablets
29. Buprenorphine Sublingual Tablets
30. Buprenorphine-Naloxone Sublingual Tablets
31. Buspirone Hydrochloride Tablets
32. Butorphanol Tartrate (Nasal Spray)
33. Cabergoline
34. Capecitabine
35. Captopril
36. Carbamazepine Chewable Tablets
37. Carbamazepine Tablets
38. Carbamazepine Extended Release Tablets
39. Cefdinir Capsules
40. Cefdinir Oral Suspension
41. Cefprozil Tablets
42. Cefuroxime Axetil
43. Celecoxib
44. Cephalexin Suspension

45. Chlorpromazine HCL
46. Cholestyramine (Powder, Solid)
47. Ciclopirox
48. Cimetidine Tablets
49. Ciprofloxacin HCL Tablets
50. Clarithromycin Extended Release Tablets
51. Clemastine Fumarate Tablets
52. Clindamycin Phosphate (Gel, Lotion, Solution, Vaginal cream)
53. Clobetasol Propionate
54. Clomipramine Hydrochloride
55. Clonidine – TTS Patch
56. Clotrimazole Topical Solution
57. Cyproheptadine HCL Tablets
58. Desmopressin Acetate Tablets
59. Desogestrel/Ethinyl Estradiol Tablets (Kariva)
60. Desonide
61. Dexmethylphenidate HCL Extended Release
62. Dextroamphetamine Sulfate Extended Release
63. Diclofenac Potassium
64. Dicloxacillin Sodium Capsule
65. Diflunisal Tablets
66. Digoxin
67. Diltiazem HCL Tablets
68. Diphenoxylate Atropine
69. Disopyramide Phosphate Capsules
70. Disulfiram Tablets
71. Divalproex Extended Release
72. Doxazosin Mesylate Tablets
73. Doxycycline Hyclate Delayed Release
74. Doxycycline Hyclate Extended Release
75. Doxycycline Monohydrate
76. Drospirenone and Ethinyl Estradiol (Ocella and Gianvi)
77. Econazole Nitrate
78. Enalapril Maleate Tablets
79. Entecavir
80. Epitol
81. Eplerenone Tablets
82. Estazolam Tablets
83. Estradiol Tablets
84. Eszopiclone
85. Ethinyl Estradiol and Levonorgestrel (Portia and Jolessa)
86. Ethosuximide Capsules
87. Ethosuximide Oral Solution
88. Etodolac Extended Release Tablets
89. Etodolac Tablets
90. Fenofibrate Tablets

91. Fluconazole Tablets
92. Fluocinolone Acetonide (Cream, Ointment, Solution)
93. Fluocinonide Cream
94. Fluocinonide Emollient Cream
95. Fluocinonide Gel
96. Fluocinonide Ointment
97. Fluoxetine HCL Tablets
98. Flurbiprofen Tablets
99. Flutamide Capsules
100. Fluvastatin Sodium Capsules
101. Fosinopril-Hydrochlorothiazide
102. Gabapentin Tablets
103. Glimepiride Tablets
104. Glipizide-Metformin
105. Glyburide
106. Glyburide-Metformin
107. Griseofulvin Suspension
108. Halobetasol Propionate (Cream, Ointment)
109. Haloperidol
110. Hydralazine HCL
111. Hydrocortisone Valerate
112. Hydroxyurea Capsules
113. Hydroxyzine Pamoate Capsules
114. Imiquimod Cream
115. Irbesartan
116. Isoniazid
117. Isosorbide Dinitrate
118. Isotretinoin Capsules
119. Ketoconazole Cream
120. Ketoconazole Tablets
121. Ketoprofen Capsules
122. Ketorolac Tromethamine Tablets
123. Labetalol HCL Tablets
124. Lamivudine/Zidovudine
125. Lamotrigine Extended Release tabs
126. Leflunomide
127. Levothyroxine
128. Lidocaine HCL
129. Lidocaine-Prilocaine
130. Loperamide HCL Capsules
131. Medroxyprogesterone Tablet
132. Meprobamate
133. Metformin ER (F)
134. Methadone HCL
135. Methimazole
136. Methotrexate Tablets

137. Methylphenidate
138. Methylprednisolone
139. Metoprolol succinate Extended Release Tablets
140. Metronidazole (Cream, Jelly, Lotion, Vaginal Gel)
141. Mimvey (Estradiol/Norethindrone Acetate)
142. Modafinil Tablets
143. Moexipril HCL Tablets
144. Moexipril HCL/HCTZ Tablets
145. Moexipril Hydrochloride Tablets
146. Montelukast Oral Granules
147. Nabumetone Tablets
148. Nadolol Tablets
149. Naproxen Sodium
150. Niacin Extended Release Tablets
151. Nimodipine Capsules
152. Nitrofurantoin Macrocrystal Capsules
153. Norethindrone Acetate
154. Norethindrone/Ethinyl Estradiol (Blazivia)
155. Nortriptyline Hydrochloride Capsules
156. Nystatin (Tablet, Ointment, Cream)
157. Omega-3-Acid Ethyl Esters
158. Omeprazole-Sodium Bicarbonate Caps
159. Oxaprozin Tablets
160. Oxybutynin Chloride Tablets
161. Oxycodone/Acetaminophen
162. Paricalcitol Capsules
163. Paromomycin
164. Penicillin VK Tablets
165. Pentoxifylline Tablets
166. Permethrin
167. Perphenazine
168. Phenytoin Sodium
169. Pilocarpine HCL
170. Pioglitazone-Metformin Tablets
171. Piroxicam
172. Potassium Chloride
173. Pravastatin Sodium Tablets
174. Prazosin HCL Capsules
175. Prednisolone Acetate
176. Prednisone
177. Prochlorperazine Tablets
178. Progesterone Tablets
179. Propranolol Hydrochloride (Capsules, Tablets)
180. Raloxifene HCL Tablets
181. Ranitidine HCL Tablets
182. Spironolactone HCTZ

183. Sumatriptan Autoinjector
184. Tamoxifen Citrate Tablets
185. Temozolomide
186. Theophylline Extended Release
187. Timolol Maleate (Ophthalmic Gel)
188. Tizanidine
189. Tobramycin Solution
190. Tolmetin Sodium Capsules
191. Tolterodine Extended Release
192. Tolterodine Tartrate
193. Topiramate Sprinkle Capsules
194. Triamcinolone Acetonide (Cream, Ointment)
195. Triamterene HCTZ (Tablets, Capsules)
196. Trifluoperazine HCL
197. Ursodiol
198. Valganciclovir Tablets
199. Valsartan HCTZ
200. Vancomycin HCL Capsules
201. Verapamil
202. Warfarin Sodium Tablets
203. Zoledronic Acid